

REMARKS

Reconsideration and allowance of the subject patent application are respectfully requested.

Applicant acknowledges with appreciation the indication that claims 20-22 and 26-35 are allowed. With respect to the comments on page 3 of the office action regarding the allowed claims, Applicant notes that elements 20, 21, 22 and 22A in Figure 3 are non-limiting examples of a recording medium, a recording area, a division area and a position control area.

Claims 23-25 were rejected under 35 U.S.C. Section 102(e) as allegedly being "anticipated" by EP 1365395.¹ While not acquiescing in this rejection or in the characterizations of EP 1365395 in the office action, claim 23 has been amended to recite that the position control area is formed in a central portion of the recording area of the recording medium.

The office action contends that field 42 in EP 1365395 corresponds to the claimed position control area. Field 42 contains clock marks 51 for deriving the clock of the pulsed reading signal. See, e.g., paragraph [0059], lines 5-6. Field 42 does not contain position information and thus does not constitute a position control area as recited in claim 23.

¹ Applicant respectfully submits that EP 1365395 does not constitute prior art under 35 U.S.C. Section 102(e) inasmuch as this document is not a U.S. patent or application. Moreover, Applicant's priority date is prior to the EP publication date and thus Applicant does not concede that the EP document is itself prior art. Applicant directs the Examiner attention to USP 7,436,748 (filing date: May 20, 2003) which is a U.S. counterpart to the EP document.

MAEDA et al.
Application No. 10/568,700
Response to Office Action dated June 25, 2008

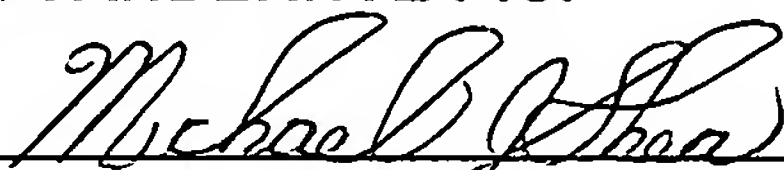
Consequently, for at least this reason, EP 1365395 cannot anticipate claim 23 or its dependent claims 24 and 25.

The pending claims are believed to be allowable and favorable office action is respectfully requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:

A handwritten signature in cursive script, appearing to read "Michael J. Shea", is written over a horizontal line.

Michael J. Shea

Reg. No. 34,725

MJS:mjs

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100